

**REMARKS**

**I. Allowable Subject Matter**

Applicants wish to thank the Examiner for indicating that claims 2, 8, 9, 11, 13, 19, 20 and 22 are allowable if rewritten in independent form. Applicants, however, respectfully submit that these claims are allowable in their present form for at least the reasons set forth below.

**II. The Section 102 Rejections**

Claims 1, 3, 4, 6, 7, 12, 14, 15, 17 and 18 were rejected under 35 U.S.C. §102(e) based on newly cited Piirainen, U.S. Patent No. 6,526,102 (“Piirainen”). Applicants respectfully disagree and traverse these rejections for at least the following reasons.

Each of the claims of the present invention include the generation of a plurality of amplifier scaling factors and the generation of an aggregate scaling factor based on the amplifier scaling factors. In contrast, Piirainen does not appear to generate a plurality of amplifier scaling factors nor derive an aggregate scaling factor based on the plurality of amplifier scaling factors.

Instead, Piirainen appears to generate a scaling factor from power levels “S\_level1 through S\_level4” (see Figure 2 and column 3, lines 52-57). Piirainen’s power levels are not scaling factors. Further, though Piirainen generates a “scaling factor” “CTRL\_VGA” by summing the power levels this scaling factor is not based on a plurality of scaling factors.

Because Piirainen does not disclose each and every feature of the claimed inventions it cannot anticipate the claims under §102(e).

Accordingly, Applicants respectfully request withdrawal of the pending rejections and allowance of claims 1, 3, 4, 6, 7, 12, 14, 15, 17 and 18.

### **III. The Section 103 Rejections**

Claims 10 and 21 were rejected under 35 U.S.C. §103(a) based on Piirainen in combination with Nomura, U.S. Patent No. 7,027,482 (“Nomura”). Applicants respectfully disagree and traverse these rejections for at least the following reasons.

In the Office Action the Examiner acknowledges that Piirainen does not teach the specific averaging times in claims 10 and 21. To make up for this deficiency the Examiner relies on Nomura.

However, Nomura does not disclose the averaging times in claims 10 and 21. Acknowledging as much the Examiner nonetheless appears to take the position that the averaging times are known in the art (“averaging times as specified is just a matter of selecting the different times”). This is an insufficient basis for rejecting the claims. As the Examiner knows well, relying on so-called “common knowledge” without any specific hint or suggestion in Nomura of the claimed averaging times is impermissible (see *In re Lang*, 61 USPQ 2d 1430 (Fed. Cir. 2002)).

Further, Applicants point out that claims 10 and 21 depend on either claims 1 and 12 and are, therefore, patentable over Piirainen and Nomura for

the reasons set forth above and because Nomura does not make up for the deficiencies of Piirainen.

Accordingly, Applicants respectfully request withdrawal of the rejections and allowance of claims 10 and 21.

**IV. Entry of Amendment After Final (“AAF”)**

Entry of this AAF is solicited because it: (a) places the application in condition for allowance for the reasons discussed herein; (b) does not raise any new issues requiring further search and/or consideration; (c) does not present any additional claims without canceling the corresponding number of finally rejected claims; and (d) places the application in better form for appeal, if an appeal is necessary.

In the event this Response does not place the present application in condition for allowance, Applicants request that the Examiner contact the undersigned at (703) 266-3330 to schedule a personal interview.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 50-3777 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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